

REMARKS/ARGUMENTS

The Examiner rejected the independent claims as either being obvious over either Baldwin et al. U.S. Patent No. 7,207,993 or Getscher et al. U.S. Patent No. 3,824,995. The Examiner states that Baldwin et al. disclosed the claimed invention except for explicitly reciting the bracket could be comprised of separate arms (i.e. split open bifurcated), and with respect to Getscher et al. the Examiner stated that the device comprised a free end, e.g. extending from the offset portion 16 which free end comprised a bifurcated (i.e. "split open section").

Applicants wish to point out that the claims as amended in the last Office Action relate to the guide which directs the cerclage cable, or more broadly, the adjustable securing means through a guide on the first portion of the bracket and around the bone as claimed. It is the guide which is formed by the split open bifurcated section of the bracket first portion (apparently what the Examiner considers to be the arm) with the bifurcated section formed by a slit through the distally extending first portion intermediate the first and second sides of the first portion. This is clearly shown in FIGS. 7 and 8. Note the securing means is taught in the specification as a wire, strap or ribbon.

Applicants are unclear as to what structure in either Baldwin et al. or Getscher et al. forms the split open bifurcated wire guide formed by a slit in the first portion which extends distally along the femur. Baldwin teaches typical through bores 360 to guide the wires. Obviously Getscher et al. does not even teach the use of a cerclage wire or any adjustable securing means with the screw 30 being the only attachment. Obviously Barnes U.S. Patent No. 5,941,881 does not teach the claim structure for guiding the cerclage cables. Consequently,

a combination of Barnes and Getscher et al. cannot possibly produce the claimed structure.

It is submitted that the Examiner has not set forth a *prima facie* case of obviousness since no piece of prior art either alone or in combination teaches the structure claimed. Merely stating that it would have been obvious for one of ordinary skill to produce the claimed structure is insufficient to form a *prima facie* case absent some suggestion of the structure in the prior art. Applicants have invented an inexpensive method of forming a trochanteric plate which can be made by, for example, stamping sheet metal without subsequent complicated machining or drilling.

Applicants request the Examiner to reconsider the final rejection of the claims or, in the alternative, enter the above arguments into the record to place the application in better condition for appeal.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: July 31, 2008

Respectfully submitted,

By

Raymond W. Augustin

Registration No.: 28,588

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

Attorney for Applicants

LD-446\